

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HORACE J. GRIFFIN,

Plaintiff,

V.

GUY D. PIERCE, et al.,

Defendants.

)
)
)
)
)
)
)
)
)

Civil No. **04-110-DRH**

ORDER

PROUD, Magistrate Judge:

Before the Court is defendant Chad Jennings' motion to stay his obligation to file a responsive pleading until after his pending motion for summary judgment is ruled on. **(Doc. 54)**. The Court considers Jennings' motion for summary judgment to actually be a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b), which, per Rule 12(b), is "treated as one for summary judgment and disposed of as provided in Rule 56." Consequently, defendant Jennings' obligation is automatically stayed until after the motion is ruled on. ***See Fed.R.Civ.P. 12(a)(4)***.

IT IS THEREFORE ORDERED that defendant Jennings' motion to stay his obligation to file a responsive pleading until after his pending motion for summary judgment is ruled on **(Doc. 54)** is **DENIED AS MOOT**.

IT IS SO ORDERED.

DATED: April 25, 2005

s/ Clifford J. Proud
CLIFFORD J. PROUD
U. S. MAGISTRATE JUDGE